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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

SURGICAL INSTRUMENT SERVICE  
COMPANY, INC.,

*Plaintiff,*

v.

INTUITIVE SURGICAL, INC.,

*Defendant.*

Case No. 3:21-cv-03496-AMO

**DEFENDANT'S PROPOSED JURY  
INSTRUCTION**

The Honorable Araceli Martínez-Olguín

Pursuant to the Court's Order Re: Curative Instruction, Dkt. 412, Defendant Intuitive Surgical, Inc. submits the following proposed jury instruction in accordance with its proposal made on the record on January 9, 2025:

Members of the Jury, yesterday you heard deposition testimony that referenced the federal Food and Drug Administration ("FDA"). You will now be instructed as to two matters of fact that you are to accept as established and true:

First, Rebotix applied in 2014 for FDA clearance for its modified EndoWrists and was rejected in 2015, and Rebotix lacked FDA clearance when Plaintiff SIS worked with it.

Second, Defendant Intuitive Surgical obtained FDA clearance for the da Vinci and the EndoWrists with a limited number of uses.

I further instruct you that FDA clearance does not determine as a matter of law that a product is safe.

Dated: January 9, 2025

By: /s/ Kenneth A. Gallo  
Kenneth A. Gallo

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**CERTIFICATE OF SERVICE**

I, Kenneth A. Gallo, hereby certify that on January 9, 2025, I caused a true and correct copy of the foregoing Defendant's Proposed Jury Instruction to be electronically filed via the Court's Electronic Case Filing System, which pursuant to the Court's order of September 29, 2008, constitutes service in this action on counsel of record for Surgical Instrument Service Company, Inc.

Dated: January 9, 2025

By: /s/ Kenneth A. Gallo  
Kenneth A. Gallo

*Attorney for Intuitive Surgical, Inc.*